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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,889	03/30/2001	Norbert J. Pelc	S 00-024	7561

30869 7590 01/08/2004

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
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EXAMINER

ROBINSON, DANIEL LEON

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 01/08/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,889

Applicant(s)

PELC ET AL.

Examiner

Daniel I. Robinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 16-24 is/are rejected.
- 7) ☒ Claim(s) 11-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawasaki et al.(U.S.Pat.6,101,239) in view of Sliski et al.(U.S.Pat.5,369,679). Kawasaki discloses a medical imaging apparatus comprised of an MRI imaging means to obtain a MR tomogram of an object used with an x-ray fluoroscopy radiographic means to obtain a radiographic image of the same object that shows all the features of the claimed invention save the explicit claiming of a steering means. Sliski discloses a low power x-ray source with implantable probe for the treatment of brain tumors that shows explicitly a steering means. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use a steering means as taught by Sliski with the apparatus of Kawasaki so as to present a beam at the anode target.

Claims 3-6, 10, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Kawasaki reference as applied to claims 1, 2, and 16-19 above, and further in view of Smith et al.(U.S.Pat.5,528,652). The modified Kawasaki reference does not show deflection plates used with a controller. Smith discloses a method and apparatus for treating brain tumors that shows controlled deflection plates. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use controlled deflection plates as taught by Smith

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with the modified device of Kawasaki to control the trajectory of and position of the electron beam.

Claims 7, 8, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Kawasaki reference as applied to claims 1, 2, and 16-19 above, and further in view of Nightingale(GB 2 281 812). The modified Kawasaki reference does not show a magnetic material used to steer the electron beam. Nightingale discloses an apparatus and method to process materials by means of ionizing radiation that shows a magnetic material to steer an electron beam. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use a magnetic material to alter a beam so as to de-focus the beam.

Claims 9 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Kawasaki reference as applied to claims 7, 8, 22, and 23 above, and further in view of Schlitt(U.S.Pat.4,455,277). The modified Kawasaki reference does not show a magnetic material around an electron source. Schlitt discloses an electron beam magnetic switch for a plurality of free electron lasers that shows a magnetic material around an electron source. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to put a magnet around an electron source to provide a transverse magnetic field.

Allowable Subject Matter

Claims 11-15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record neither teaches or suggests an imaging system as claimed wherein a means for measuring a location of a focal spot of the electron beam on the anode target is provided.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hasegawa, Piestrup, Dinsmore, Meulenbrugge, Schulz, and Ivan are cited to show structure and methods similar to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Robinson whose telephone number is 703 306-9043. The examiner can normally be reached on M-F 5:30am-2:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0861.

dlr

DANIEL ROBINSON
PATENT EXAMINER

